

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

RONALD G. ARDRY,
Plaintiff,

v.

MORTGAGE ASSETS MANAGEMENT, LLC,
Defendant.

CIVIL ACTION NO.: 1:23-cv-280

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES AND CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Mortgage Assets Management, LLC (“MAM”), hereby removes the above-captioned action from New Hampshire Superior Court, Cheshire County, to this Court based on the following supported grounds:

I. PROCEDURAL BACKGROUND AND NATURE OF ACTION

1. On or about April 28, 2023, Plaintiff, Richard G. Ardry (“Plaintiff”) filed this action in the New Hampshire Superior Court, Cheshire County, captioned *Ronald G. Ardry v. Mortgage Assets Management, LLC*, bearing Civil Action No. 213-2023-CV-00076.

2. On or about May 1, 2023, the New Hampshire Superior Court, Cheshire County, issued an *ex parte* order enjoining MAM’s then scheduled foreclosure of the real property known as 668 Granite Lake Road, Nelson, New Hampshire (the “Property”).

3. On or about May 5, 2023, Plaintiff served a Summons and Complaint to Enjoin Foreclosure Sale (the “Complaint”) on MAM’s Registered Agent (A copy of the Complaint is attached hereto as Exhibit A.)

4. Through the Complaint, Plaintiff disputes that he defaulted on his reverse mortgage (the “Reverse Mortgage”) due to an alleged failure to pay real estate taxes and hazard insurance

for the Property, and asserts various claims against MAM, including: (1) a request to enjoin the foreclosure of the Property; and (2) a judicial declaration that Plaintiff was not and is not in default of the Reverse Mortgage. (*See generally*, Ex. A.)

II. THE COURT HAS DIVERSITY JURISDICTION OVER THIS ACTION

5. The United States Court for the District of New Hampshire has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the action is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00. *See* 28 U.S.C. § 1332(a).

A. Diversity of Citizenship

6. First, there is complete diversity of citizenship under 28 U.S.C. § 1332(a) between the parties. Plaintiff is a citizen of New Hampshire. (*See* Ex. A, ¶ 1.)

7. MAM is a limited liability company with its principal place of business in the state of Texas. (*See* Ex. A, Introductory Para.) Therefore, under 28 U.S.C. § 1332(c)(1), MAM is a citizen of Texas for purposes of diversity jurisdiction.

8. Accordingly, complete diversity of citizenship is established as between Plaintiff (a citizen of New Hampshire) and MAM (a citizen of Texas).

B. Amount in Controversy

9. Second, the amount in controversy exceeds \$75,000.00. Plaintiff has placed the right to title to the Property at issue. (*See* Ex. A, ¶ 27.) Where the right to enforce a mortgage loan is at issue, the original principal amount of the mortgage may constitute the amount in controversy for diversity jurisdiction purposes. *See McKenna v. Wells Fargo Bank, N.A.*, 693 F.3d 207, 211-12 (1st Cir. 2012) (considering, among other potential tests, the loan amount as amount in controversy in cases where complaint seeks to invalidate a loan secured by a mortgage); *see also*

Bedard v. Mortgage Electronic Registration Systems, Inc., No. 11-cv-117-JL, 2011 U.S. Dist. LEXIS 51800, at *7 (May 11, 2011) (adopting fair market value as measure of amount in controversy for diversity jurisdiction purposes). The original principal amount of the Reverse Mortgage is \$277,500.00. (*See, e.g.*, Ex. A, ¶ 2.) Thus, the amount in controversy exceeds \$75,000.00.

10. Based on the foregoing, this Court has jurisdiction over this action based upon diversity of citizenship and amount in controversy pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

III. MAM HAS COMPLIED WITH ALL PREREQUISITES FOR REMOVAL

11. Given that the lawsuit was filed on April 28, 2023, and service was effectuated on MAM on May 5, 2023, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)(1). *See, e.g., Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350-51, 119 S. Ct. 1322, 143 L. Ed. 2d 448 (1999) (“one becomes a party officially, and is required to take action in that capacity, only upon service of a summons or other authority-asserting measure stating the time within which the party served must appear and defend”).

12. Additionally, venue properly lies in the District of New Hampshire because Plaintiff’s claims arise out of the Reverse Mortgage encumbering the Property located in Nelson, New Hampshire, and Plaintiff commenced this action initially in New Hampshire Superior Court, Cheshire County.

13. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this removal notice will be given to Plaintiff’s counsel and will be filed with the appropriate clerk, following filing of this Notice of Removal.

14. Within 14 days of filing this Notice of Removal, MAM will file certified copies of the docket sheet and all document filed in the state court action, pursuant to L.R. 81.1(c).

15. MAM reserves the right to amend or supplement this Notice of Removal and reserve all rights and defenses in this action, including those available under Fed. R. Civ. P. 12.

WHEREFORE, Mortgage Assets Management, LLC hereby removes this action from the New Hampshire Superior Court, Cheshire County, to the United States District Court for the District of New Hampshire.

MORTGAGE ASSETS MANAGEMENT,
LLC

By: Its Attorneys

/s/ Donald W. Seeley, Jr.
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Dated: May 19, 2023

CERTIFICATE OF SERVICE

I, Donald W. Seeley, Jr., hereby certify that on this 19th day of May, 2023, I served a true and accurate copy of the foregoing document to the following by first class mail and e-mail as follows:

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/s/ Donald W. Seeley, Jr.
Donald W. Seeley, Jr.